

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5950 of 1995

WITH

CIVIL APPLICATION NO 2223 OF 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?  
Nos. 1 to 5 No
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SIDHARTHA COOPERATIVE HOUSING SOCIETY

Versus

AMARUBHAI GIGABHAI

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Appearance:

MR BK OZA FOR MR ND NANAVATI for Petitioner  
MR HK RATHOD for Respondent No. 1

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 27/01/98

ORAL JUDGEMENT

Mr.B.B.Parmar, President of Sidhartha Co-operative Housing Society is also present. The President of the Co-operative Housing Society has produced the copy of the order dated 26.1.1998 passed by the Society. In terms of this order the society agrees to pay to the applicant Shri Amrubhai Gigabhai an amount of Rs.9,437.50 against backwages and costs in terms of the award. The society has also agreed to reinstate the

applicant in terms of the award and he will be treated to have been reinstated from the date of the award i.e. 20.1.1995 with continuity of service. It is then stated by Mr.B.K.Oza that application under section 17B had been moved by the applicant on 19.10.1996 only. The society is facing great financial hardships and it is running under debts. The society also agrees to pay the salary at the rate of Rs.300/- p.m. to the applicant from 19.10.1996 upto date and would go on paying the same to him during the pendency of this Special Civil Application and the applicant shall continue to discharge his duties and effectively he would be discharging his duties now from 1.2.1998 but payment for the period 19.10.1996 to 31.1.1998 shall be paid to him at the rate of Rs.300/- p.m. on or before 28.2.1998. Thus by the end of February,1998 all due amount i.e. backwages as mentioned in the order dated 26.1.1998 passed by the society and the amount of wages computed at the rate of Rs.300/- p.m. for the period 19.10.1996 to 31.1.1998 shall be paid into the hands of the applicant herein on or before 28.2.1998. The amount of wages for the period 20.1.1995 upto 18.10.1996 is hereby waived by the applicant workman provided the petitioner society withdraws this Special Civil Application.

Both the sides submit that the aforesaid arrangement is agreeable to them and it is submitted that the award shall be deemed to be satisfied in toto on the agreed terms as above. It is also agreed between the parties that it would be open for the workman to agitate his claim afresh for the purpose of revision of his wages from Rs.300/- to any higher amount in accordance with law. With the consent of both the sides, the main Special Civil Application is hereby disposed of on the following terms :

- [1] Amount of backwages from 10.11.1983 to 20.1.1995 shall be paid into the hands of the workman Shri Amarubhai Gigabhai i.e. the amount of Rs.9,437.50 in terms of the order dated 26.1.1998 produced before this Court by President of the society today.
- [2] The applicant workman forgoes the wages for the period on and from 20.1.1995 to 18.10.1996.
- [3] The applicant workman shall be paid the wages at the rate of Rs.300/- p.m. from 19.10.1996 till 31.1.1998 and thereafter in case the applicant workman reports on duty on 1.2.1998 and the amount of both the counts as above shall be paid

into the hands of the applicant on or before 28.2.1998.

[4] The applicant workman stands reinstated from the date of the award dated 20.1.1995 with continuity of service in terms of the order dated 26.1.1998 itself.

[5] Should the applicant fail to report on duty in 1st week of February, 1998 he will forfeit his right to agitate for the revision of his wages. This order would bring an end to all the controversies between the parties till date of the award with regard to the wages.

[6] It will be open for the applicant workman to agitate for the revision of his wages prospectively and the award shall be deemed to be satisfied in toto subject to the conditions as aforesaid.

The impugned award is modified in the terms as above and henceforth this order would govern the respective rights of the parties instead of the impugned award. The recovery certificate obtained by the applicant workman on the basis of the award dated 20.1.1995 passed by the Labour Court, Junagadh in Old Reference (LCR) No.1526/84 and new Reference (LCJ) No. 240/90 i.e. the proceedings in the Recovery Application No. 130 of 1995 shall not be pressed and enforced by the applicant workman in case the aforesaid conditions are complied with.

This Special Civil Application is accordingly disposed of and the rule is also made absolute in the terms as aforesaid. Interim order dated 18.9.1995 stands vacated automatically. No order as to costs.

CIVIL APPLICATION NO 2223 OF 1997.

In view of the order passed in the main Special Civil Application No. 5950 of 1995, the Civil Application No. 2223 of 1997 filed by the applicant workman is not pressed by Mr. Rathod, the same is accordingly decided and disposed of.

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m.m.bhatt